

Nos. 22-2082, 22-2101

United States Court of Appeals for the Fourth Circuit

ANNE ARUNDEL COUNTY MARYLAND,

Plaintiff-Appellee,

v.

BP P.L.C., *et al.*,

Defendants-Appellants.

Appeal from the United States District Court
for the District of Maryland, No. 1:21-cv-01323-SAG
(The Honorable Stephanie A. Gallagher)

CITY OF ANNAPOLIS, MARYLAND,

Plaintiff-Appellee,

v.

BP P.L.C., *et al.*,

Defendants-Appellants.

Appeal from the United States District Court
for the District of Maryland, No. 1:21-cv-00772-SAG
(The Honorable Stephanie A. Gallagher)

**DEFENDANTS-APPELLANTS' MOTION FOR EXTENSION OF TIME TO
FILE PETITION FOR PANEL REHEARING AND REHEARING EN BANC**

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Defendants-Appellants respectfully move for a 14-day extension of time in which to file their petition for panel rehearing and rehearing en banc. Counsel for Defendants-Appellants have conferred with counsel for Plaintiffs-Appellees regarding this motion, and Plaintiffs-Appellees do not oppose this request.

Federal Rule of Appellate Procedure 26(b) provides that a party may receive an extension of time to file “[f]or good cause,” and Local Rule 40(c) provides that an extension of time to file a petition for rehearing may be granted for “an extraordinary circumstance wholly beyond the control of counsel.”

On February 26, 2024, this Court, considering this consolidated appeal of two separate actions, affirmed the district court’s remand of the actions to the Maryland state courts. Defendants-Appellants’ petition for panel rehearing and rehearing en banc is currently due on March 11, 2024. Defendants-Appellants respectfully request a 14-day extension of time, until March 25, 2024, in which to file a petition for panel rehearing and rehearing en banc.

Good cause and extraordinary circumstances support Defendants-Appellants’ request for an extension of time. This appeal encompasses

important issues of federal jurisdiction, including whether claims seeking redress for harms allegedly caused by the use of oil and gas produced and supplied at the direction of the federal government give rise to federal-officer-removal jurisdiction. Defendants-Appellants are currently evaluating whether to seek further review of this Court's decision, including on the ground that the Court's decision conflicts with the Seventh Circuit's decision in *Baker v. Atlantic Richfield Co.*, 962 F.3d 937, 944–45 (7th Cir. 2020) (holding that removing defendants “d[o] not need to allege ‘that the complained-of conduct *itself* was at the behest of a federal agency’”; it is sufficient “‘that the allegations are directed at the relationship’ between the [defendants] and the federal government.”).

Extraordinary circumstances beyond the control of counsel exist here because Defendants-Appellants in this matter comprise twenty-six distinct entities represented by twenty separate law firms, all of whom must confer with their clients and each other to determine whether to file a petition for panel rehearing and rehearing en banc, and then, if the decision is made to file such a petition, to prepare a joint petition acceptable to all participating parties. This coordination among many parties requires additional time, and will be especially challenging given

preexisting deadlines in other climate-change-related cases in which many of the Defendants-Appellants in this matter, and their counsel, are involved.

For the foregoing reasons, Defendants-Appellants respectfully move the Court to extend the deadline for their petition for panel rehearing and rehearing en banc by 14 days, until March 25, 2024. This request for an extension of time is not made for delay, and no party will be prejudiced if it is granted.

March 6, 2024

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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g)(1), the undersigned certifies that this consent motion complies with the applicable typeface, type-style, and type-volume limitations. This motion was prepared using a proportionally spaced type (New Century Schoolbook, 14 point). Exclusive of the portions exempted by Federal Rule of Appellate Procedure 32(f), this consent motion contains 449 words. This certificate was prepared in reliance on the word-count function of the word-processing system used to prepare this brief.

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CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2024, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

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